

REMARKS

Claims 1-9, 11, and 16-32 are all the claims pending in the application. By this Amendment, Applicant cancels claims 13-15 and adds claims 19-32, which are clearly supported throughout the specification.

I. Preliminary Matter

As a preliminary matter, Applicant respectfully requests that the Examiner indicate acceptance of the drawings filed with the application on January 9, 2004.

II. Improper Finality

Applicant respectfully submits that new grounds of rejection have been presented in the present Office Action that was not necessitated by any amendment made by the Applicant. Accordingly, Applicant submits that the finality of the present Office Action is premature and, therefore, respectfully requests the Examiner to withdraw the finality.

The Examiner contends that Applicant's amendments necessitated new grounds for a rejection (*see* page 7 of the Office Action). However, Applicant editorially amended claims 1-9, and 11 for better conformity with the US practice. Claims 1, 9, and 11 were also amended to broaden the scope of the claims. For example, independent claim 1 was amended to recite:

A method for optimizing ~~optimising~~-quality of service in ~~a the~~-packet-switched domain of a mobile communication system, ~~a-the~~ method comprising ~~wherein~~:
sending, by a core network entity of said system, ~~sends~~ to a radio access network entity of said system a request for the setting-up or reconfiguration of a radio bearer for a packet session for a mobile station, said request comprising ~~including~~ first information derived from quality of

service information contained in a
corresponding request received by said core
network entity; and
adding, by said core network entity, ~~adds to~~
said request second information, that is
known at its a level of said core network
entity which can be used, together with said
first information, to perform a call
admission control at the radio level.

That is, claim 1 was broadened by not explicitly requiring “call admission control at the radio level.” Surely, *broadening amendment could not have resulted in withdrawal of the previous grounds of rejection* and issuance of the new grounds for a rejection. Furthermore, claim 1 was amended to positively recite “sending” as opposed to “send”, “adding” as opposed to “add” and changing “its level” to a “level of said core network entity” to more clearly set forth what is “its level”. These conformity related amendments could not have and would not have required new grounds for a rejection.

Applicant respectfully submits that the current grounds of rejection should have been made of record by the Examiner in the first Office Action. By making the present Office Action a final action, Applicant has not been afforded the opportunity to respond by amending the claims as a matter of right.

Based on the foregoing, Applicant respectfully requests that the finality of the present Office Action be withdrawn.

III. Summary of the Office Action

The Examiner withdrew the previous grounds of rejection. The Examiner, however, found new grounds for rejecting the claims. Specifically, claims 13 and 14 stand rejected under

35 U.S.C. § 112, first paragraph, claims 1, 2, 7-9, 13-15, and 18 are rejected under 35 U.S.C. § 102(e), and claims 3-6, 16, and 17 under 35 U.S.C. § 103(a).

IV. Claim Rejections under 35 U.S.C. 112, first paragraph

Claims 13 and 14 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant has cancelled these claims rendering this rejection moot.

V. Rejections under 35 U.S.C. § 102

Claims 1, 2, 7-9, 13-15, and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by newly cited U.S. Publication No. 2004/0047437 to Hamiti (hereinafter “Hamiti”). Applicant respectfully traverses these grounds of rejection in view of the following comments.

Of these rejected claims, only claims 1, 9, and 11 are independent. Independent claims 1, 9, and 11, in some variation, include “a request for the setting-up or reconfiguration of a radio bearer for a packet session for a mobile station, said request comprising first information derived from quality of service information contained in a corresponding request received by said core network entity; adding, by said core network entity, to said request second information, that is known at a level of said core network.”

In an exemplary, non-limiting embodiment, it is disclosed that in supporting real-time services, it is important to know the cell in which the mobile station (MS) is, and its capabilities (e.g., if it is EGPRS capable or not), the state of the cell (e.g., how loaded it is), and the MS capabilities (e.g. if the MS is EGPRS capable or not, and the MS’s multislot class).

Accordingly, in an exemplary, non-limiting embodiment of the present invention, a core network entity such as an SGSN included in a request for setting up or reconfiguring a packet

session first information derived from quality of service information received in the request from the MS and adds to the request second information, that is known in the SGSN, such as access capabilities of the MS. Accordingly, this request is sent to a radio access network entity such as a base station subsystem (BSS), which uses the first and second information to determine whether a PDP context session may be established and performs the admission control procedure based on these information. That is, the BSS will permit or deny establishing a PDP context session based on this information included in the request from the SGSN.

It will be appreciated that the foregoing remarks relate to the invention in a general sense, the remarks are not necessarily limitative of any claims and are intended only to help the Examiner better understand the distinguishing aspects of the claims mentioned above.

The Examiner contends that Hamiti discloses the unique features of claim 1. In his remarks in support of the rejection at page 3 of the Office action, the examiner refers to paragraphs [0095-0096] as teaching the claimed feature of including in the setup/reconfiguration request first information derived from QoS information contained in a corresponding request received by the core network entity. Paragraph [0096] does describe the message sent by the SGSN to the BSS as including a header adaptation field which, as described in the Abstract and in paragraph [0095], may be derived from the QoS element in the message received by the SGSN by the MS.

The examiner next refers to paragraphs [0097-0098] as support for the claimed feature of including in the message from the core network entity second information that is known at a level of the core network entity. Paragraph [00097] describes messages sent by the BSS/GERAN to the mobile station and to the SGSN. Neither of these is a message from the core

network entity, i.e., neither of these is from the SGSN and neither is the message described in paragraph [0096] which the examiner has relied on as the claimed message that includes the “first” information. Paragraph [0098] describes an “activate secondary PDP context accept message” sent by the SGSN to the MS through the BSS/RAN. There is no discussion as to what is in this message, and more importantly it is not the message described in paragraph [0096].

At page 4 of the Office action, the examiner cites again to paragraph [0098] of Hamiti as allegedly supporting the subject matter recited in claim 2, but paragraph [0098] says nothing about a message reflecting the radio access capabilities of the MS, and most importantly, says nothing about including such information in the same message described in paragraph [0096].

At page 4 of the Office action, in his comments in support of dependent claim 13, the examiner now refers to paragraph [0092] of Hamiti as support for the message including first information derived from the corresponding request for connection from the mobile station. Paragraph [0092] describes generally the sequence of messages shown in Fig. 8, but says nothing about what is contained in any of these messages. Since the examiner has clearly identified the SGSN in Hamiti as corresponding to the claimed core network entity, the candidate for the claimed message would be the message 94 in Fig. 8 which is sent from the SGSN to the RAN. This messages is described in paragraph [0096].

At the bottom of page 4, the examiner now refers to paragraph [0095] as allegedly supporting the sending of second information comprising identification of the cell in which the mobile station currently resides and the state of the cell. However, paragraph [0095] is not describing a message sent from the SGSN to the RAN but instead a request message 92 sent

from the mobile station to the SGSN. Further, paragraph [0095] says nothing at all about identifying a resident cell or the state of the cell.

In sum, the only message in Hamiti et al which is sent from the SGSN to the RAN for requesting setting up or reconfiguring of a connection is the message 94 in Fig. 8 which is described in paragraph [0096], and Hamiti et al does not at any point suggest that this message 94 should include both information derived from the QoS information contained in a request received by the SGSN as well as information known at the level of the SGSN and added to the message 94.

Therefore, “sending, by a core network entity of said system, to a radio access network entity of said system a request for the setting-up or reconfiguration of a radio bearer for a packet session for a mobile station, said request comprising first information derived from quality of service information contained in a corresponding request received by said core network entity; adding, by said core network entity, to said request second information, that is known at a level of said core network entity,” as set forth in some variations in claims 1, 9, and 11 are not disclosed by Hamiti, which lacks having the second information, known at the level of the core network entity being added to the first information derived from the QoS received from the MS. For at least these exemplary reasons, claims 1, 9, and 11 are patentably distinguishable from Hamiti. Therefore, Applicant respectfully requests the Examiner to withdraw these rejections of claims 1, 9, and 11. Claims 2, 7, and 8 are patentable at least by virtue of their dependency on claim 1 and claim 18 is patentable at least by virtue of its dependent on claim 11.

In addition, dependent claim 2 recites: “wherein said second information comprises information representative of radio access capabilities of said mobile station.” The Examiner

contends that ¶ 98 of Hamiti disclose these unique features of claim 2 (*see* page 4 of the Office Action). Applicant respectfully disagrees.

¶ 98 of Hamiti recites: “[t]hereafter, and as indicated by the segment 102, an activate (secondary) PDP context accept message is generated by the SGSN. The message is sent, by way of the BSS/RAN and the radio link, to the mobile station/user equipment.” As is visible, ¶ 98 of Hamiti is unrelated to the second information but instead discloses that an active PDP context accept message generated by SGSN is sent back to MS (Fig. 8). As explained above, Hamiti does not disclose the claimed second information. Furthermore, Hamiti does not disclose that the second information is representative of the radio access capabilities of the MS.

For at least these additional exemplary reasons, claim 2 is patentably distinguishable from Hamiti.

Dependent claim 13 recites: “the first information is derived from the corresponding request for connection of the mobile station; second information comprises identification of a cell in which the mobile station currently resides and state of the cell.” Hamiti only discloses the MS sending the QoS information to SGSN. There is no disclosure or suggestion in Hamiti of the second information that would include identification of the cell in which the MS currently resides and its state. For at least these additional exemplary reasons, claim 13 is patentably distinguishable from Hamiti

Dependent claim 14 recites: “the second information further comprises whether the mobile station is an Enhanced General Packet Radio Service (EGPRS) enabled or not and whether the cell in which the mobile station currently resides is EGPRS enabled or not.” As explained above, Hamiti does not disclose or even remotely suggest the second information

within the meaning of the claimed invention. The Examiner contends that ¶¶ 84 and 85 of Hamiti disclose the above-quoted unique features of the dependent claim 14. Applicant respectfully disagrees.

¶¶ 84 and 85 of Hamiti recite:

Referring first to FIG. 5, a communication system, shown generally as 10, provides for radio communication with a mobile station 12. Here, communications are effectuated pursuant to a communication session between the mobile station and a correspondent node 14. A communication path is formable between the correspondent node and the mobile station. The communication path is defined upon a radio link 16, elements of a base station system and radio access network (BSS/RAN) portion 18, an SGSN (Serving GPRS Service Node) 22, a GGSN (Gateway GPRS Service Node) 24, and a packet data network backbone, here an IP (Internet Protocol) network 26.

The radio access network portion 18 includes network elements operable to permit the radio connection with the mobile station upon the radio link 16. In the exemplary implementation, the radio access network portion is generally constructed to be operable pursuant to a proposed GERAN (GSM/EDGE Radio Access Network), as presently promulgated.

As is visible from the above-quoted passage of Hamiti, there is no disclosure of the second information, nor that the second information includes whether the mobile station is an EGPRS enabled or not and whether the cell in which the mobile station currently resides is EGPRS enabled or not. The above-quoted passages of Hamiti simply disclose the structure of a radio

network. In short, the above-quoted passages and the remaining disclosure of Hamiti do not disclose or suggest the second information as claimed in claim 14.

For at least these additional exemplary reasons, claim 14 is patentably distinguishable from Hamiti

VI. Rejections under 35 U.S.C. § 103

Claims 3-6, 16, and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamiti in view of U.S. Publication No. 2004/0132441 to Livet (hereinafter “Livet”). Applicant respectfully traverses these grounds for a rejection in view of the following comments.

Claims 3-6, 16, and 17 depend on claims 1 and 9, respectively. It was already demonstrated that Hamiti does not disclose or suggest the unique features of claims 1 and 9. Livet does not cure the deficient disclosure of Hamiti (as explained in the Amendment under 37 C.F.R. § 1.111 filed on May 30, 2006, incorporated herein by reference). Accordingly, claims 3-6, 16, and 17 are patentable at least by virtue of their dependency on claims 1 and 9, respectively.

VII. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Appl. No. 10/753,474
Attorney Docket No.: Q79100

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